

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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EDWARD A. SPANGLER,

Plaintiff,

v.

Case No. 20-C-978

CHRISTOPHER TIMM,

Defendant.

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**ORDER**

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This matter comes before the Court on Plaintiff's motion to compel discovery. In particular, Plaintiff requests that Defendant provide a copy of the video recording of a May 6, 2020, search of Plaintiff by USB flash drive, rather than the provided DVD, and that Defendant respond to the discovery requests that he claimed are protected by attorney-client privilege.

Civil Local Rule 37 requires that all motions to compel include "a written certification by the movant that, after the movant in good faith has conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action, the parties are unable to reach an accord." In other words, before filing a motion to compel, a party needs to first discuss its dispute with the opposing party's lawyer before asking the court to get involved. And, if they cannot work out the dispute and a party files a motion to compel, the party must include proof in his motion that he first tried to work it out with the opposing party's lawyer.

Plaintiff's motion is deficient because it does not indicate that Plaintiff attempted to contact Defendants' lawyer to resolve any discovery dispute before seeking relief from the Court in accordance with Local Rule 37. Therefore, the Court will deny his motion as premature. Parties

are often able to resolve their disputes without the Court's help. Informal resolution without the Court's involvement and a brief discussion may easily resolve whatever issues exist and save the parties the time and effort of briefing a motion.

Notwithstanding the fact that Plaintiff did not meet and confer with Defendant, the Court notes that Defendant provided Plaintiff with a DVD containing a video recording of the search. Defendant may choose to utilize any permissible format to produce discovery and has not violated a discovery rule by failing to produce a copy of the video in Plaintiff's preferred format, assuming the format chosen is accessible to Plaintiff.

**IT IS THEREFORE ORDERED** that Plaintiff's motion to compel discovery (Dkt. No. 37) is **DENIED**.

Dated at Green Bay, Wisconsin this 29th day of March, 2021.

s/ William C. Griesbach  
William C. Griesbach  
United States District Judge